GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Services – PR&RD – Allegations of irregularities and misappropriation and malpractices by the Superintending Engineer, RWS&S, Ongole - Sri. R.M.R Dayal, Superintending Engineer, RWS&S, Ongole, Prakasam District and now retired from service – Disciplinary proceedings under Rule 20 of Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 read with Rule 9 of A.P. Revised Pension Rules, 1980 – Article of charges – Issued.

PANCHAYAT RAJ & RURAL DEVELOPMENT (VIG.II) DEPARTMENT

G.O.Rt.No. 1015 Dated:31.10.2015

Read :

G.O.Ms.No.100, Panchayat Raj & Rural Development (Vig.II) Dept., Dated:31.10.2015.

ORDER:

In pursuance of the sanction accorded in the reference read above, under sub-clause (i) of clause (b) of sub-rule (2) of Rule 9 of Andhra Pradesh Revised Pension Rules, 1980, for instituting departmental proceedings against Sri R.M.R Dayal, Superintending Engineer, Rural Water Supply & Sanitation, Ongole, Prakasam District (Retd.), it is proposed to hold an enquiry against Sri R.M.R Dayal, Superintending Engineer, Rural Water Supply & Sanitation, Ongole, Prakasam District (Retd.), in accordance with the procedure laid down in Rule 20 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991.

2. The substance of the imputations of misconduct or misbehavior in respect of which the enquiry is proposed to be held is set out in the enclosed statement of article of charges (Annexure-I). A list of documents by which and a list of witnesses by whom, the article of charges are proposed to be sustained are also enclosed (Annexure-II and III).

3. Sri R.M.R Dayal, Superintending Engineer, Rural Water Supply & Sanitation, Ongole, Prakasam District (Retd.) is directed to submit within ten (10) days of the receipt of this order, a written statement of his defence.

4. Sri R.M.R Dayal, Superintending Engineer, Rural Water Supply & Sanitation, Ongole, Prakasam District (Retd.) is informed that an enquiry will be held only in respect of article of those charges as are not admitted. He should, therefore, specifically admit or deny article of charge.

5. Sri R.M.R Dayal, Superintending Engineer, Rural Water Supply & Sanitation, Ongole, Prakasam District (Retd.) is further informed that if he does not submit his written statement of defence on or before the period specified in Para 3 above or otherwise fails or refuses to comply with the provisions of Rule 20 of Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 or the orders / directions issued in pursuance of the said rules, the Inquiring Authority may hold the inquiry against him ex-parte.

6. Sri R.M.R Dayal, Superintending Engineer, Rural Water Supply & Sanitation, Ongole, Prakasam District (Retd.) is invited to Rule 24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, under which no Government Servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matter dealt within these proceedings, it will be presumed that Sri R.M.R Dayal, Superintending Engineer, Rural Water Supply & Sanitation, Ongole, Prakasam District (Retd.) is aware of such a representation and that it has been made at his instance and action will be taken against him for violation of Rule-24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964.

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7. The receipt of this order shall be acknowledged.

(BY ORDER AND IN THE NAME OF GOVERNOR OF ANDHRA PRADESH)

Dr. K.S. JAWAHAR REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

To
Sri R.M.R Dayal, Superintending Engineer, RWS&S, Ongole, Prakasam District (Retd.) through the Engineer-in-Chief, RWS&S, Hyderabad.
The Engineer-in-Chief, RWS & S., Hyderabad. (in duplicate with a request to serve and return the dated acknowledgement copy)
Copy to:
The Genl. Admn. (V&E) Department, A.P., BRKR Buildings, Hyderabad (w.r.t. Vigilance Report No.38 (C.No.1064/V&E/E2/2013), dated:06.05.2015).
The PR&RD (Estt.I) Department.
SF/SC

// FORWARDED :: BY ORDER //

SECTION OFFICER

ANNEXURE-I

(Annexure to G.O.Rt.No.1015, PR&RD (Vig.II) Dept., dt. 31.10.2015)

STATEMENT OF ARTICLE OF CHARGES AGAINST SRI R.M.R DAYAL, SUPERINTENDING ENGINEER, RWS&S, ONGOLE, PRAKASAM DISTRICT (RETD.).

CHARGE-I:

That Sri R.M.R Dayal, Superintending Engineer, RWS&S (Retd.), while working as Superintending Engineer, RWS&S., Ongole, Prakasam District, has committed grave irregularities, in violation of rules, in as much as he has

(i) Called tenders for a sub-work of "Providing Gas Chlorination unit at clear water sump of K.V. Palem Project in Chimakkurthy Mandal and the other schemes in Prakasam District" – Est. Rs.5.00 lakhs without sanctioning the sub-estimate. He placed 7 work orders for procuring Gas Chlorination plants from M/s Indus Tech and another 4 work orders to Sri M. Anji Reddy, Contractor though he is not eligible for erecting Gas Chlorinators based on above tender rates in violation of tender conditions and rules.

(ii) Conducted negotiations with bidder M/s. Indus Water Tech in above tender in violation of rules.

(iii) Failed to obtain technical sanction of the estimate "O&M of CPWS Scheme to Medarametla and other habitations of Prakasam District. Est. Rs.71.85 Lakhs", from Engineer-in-Chief, RWS&S, A.P., Hyderabad.

(iv) Not taken any action on field officers for late submission of O&M estimates in the District. Instead of calling tenders, he allowed field officers to execute all works of O&M to CPWS Schemes in the District, through k2 agreements in his entire tenure

(v) Utilised an amount of Rs.12.00 Lakhs from the funds deposited by NHAI towards supervision charges for shifting pipelines for preparation DPRs by consultants by getting A.S from Collector & District magistrate by misleading the fact that Government approval is necessary for engaging third party consultants under NRDWP scheme as per G.O. Rt. No. 1583 Panchayat Raj & Rural Development (RWS. II) Department, Dated 27.08.2012.

CHARGE-II:

That Sri R.M.R Dayal, Superintending Engineer, RWS&S (Retd.), while working as Superintending Engineer, RWS&S, Ongole, Prakasam District, has committed grave irregularities as Project Manager, APRWSSP, DPSU, Ongole, in violation of rules, in as much as:-

(i) Without verifying the genuineness of the experience certificates produced by the contractors, he concluded agreements in World Bank works. Ex. He has not verified Sub contract experience certificate produced by Sri M. Anji Reddy, Contractor though the sub contract work experience produced by him is in his jurisdiction.

(ii) As a responsible tender opening/ approving authority in the cadre of Superintending Engineer, he failed to verify all bid documents before recommending / approving tenders in World bank works which lead to compromising by the bidders and

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gave chance to other malpractices by his subordinates staff as discusses in detail in the Vigilance Report No.38 (C.No.1064/V&E/E2/2013), dated:06.05.2015 of the General Administration (Vigilance & Enforcement) Department.

(iii) Several irregularities were observed in entrustment of works to consultants in World Bank as discussed in detail in the Vigilance Report No.38 (C.No.1064/V&E/E2/2013), dated:06.05.2015 of the General Administration (Vigilance & Enforcement) Department.

(iv) Failed to obtain DPR estimates of World bank Schemes from third party consultants as per TOR conditions there by defeated the purpose of engaging consultants to use latest technology in implementation of these schemes. None of the estimates submitted by consultants bear their signatures leading to suspicion that whether these are done by them or by department officers.

(v) He has not forwarded consultant agreement to field officers for getting DPRs done as per TOR conditions. Instead all the MB recordings, bill processing was done by only two officers in his office without proper scrutiny from account side payments made which lead to several irregularities in payments made to consultants.

(vi) He made 100% payments to consultants without verifying the details of approval from competent authority.

(vii) An amount of Rs. 10,46,645/- was paid to consultants towards service tax instead of recovering from the bills of consultants. He has not obtained any confirmation of service tax remittance by the consultants to concerned department causing loss to Government.

(viii) Allowed excess rates for preparation of DPR's in World Bank scheme than the maximum ceiling rates approved for consultants by the Project Director to Sri A. Ramanjaneyulu, Hyderabad in Agt. No. PM/20 Batch-III MVS (Y. palem Sub–Division) /2013 dated 15.01.2013

(ix) Though rates are inclusive of service Tax in the Agreement No. PM/19/Batch –III SVS (Podili Division) /2013 dated 15.01.2013 an amount of Rs. 50,058/- was added towards ST and paid.

CHARGE-III:

That Sri R.M.R Dayal, Superintending Engineer, RWS&S (Retd.), while working as Superintending Engineer, RWS&S, Ongole, Prakasam District, has committed grave irregularities as Executive Engineer, RWS (P) Division Podili (FAC), in as much as, he failed to take action on bidders who have not submitted their bids violating tender conditions for the 4 augmentation works of CPWS Scheme to kurichedu Mandal.

CHARGE-IV:

That Sri R.M.R Dayal, Superintending Engineer, RWS&S (Retd.), while working as Superintending Engineer, RWS&S, Ongole, Prakasam District, has committed grave irregularities as Executive Engineer, RWS Division, Ongole (FAC), in as much as he paid an amount of Rs.10.00 lakhs to M/s SV Associates, consultants by colluding with field Engineers for preparation of DPRs under NRDWP scheme.

BAIS OF THE CHARGES:-

The General Administration (Vigilance & Enforcement) Departmental officials have enquired into the following allegations irregularities regarding the misappropriation and malpractices made by Sri D. Madhusudan Rao, Petitioner, Parchuru, Prakasam District against Sri R.M.R. Dayal, the then Superintending Engineer RWS&S Circle, Ongole and submitted a report to Government vide Vigilance Report No.38 (C.No.1064/V&E/E2/2013), dated:06.05.2015:-

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Government vide Vigilance Report No.38 (C.No.1064/V&E/E2/2013), dated:06.05.2015:-

I. The Superintending Engineer procured 10 gas chlorinators through Anji Reddy, Contractor though he is not having experience in supply & maintenance of gas chlorinators @ Rs.5.00 lakhs against market rate of Rs.2.50 to 3.00 lakhs.

II. O&M grant of Rs.45.00 lakhs (13th Finance Commission grant) was utilized for laying pipe lines in 8 habitations in Kurichedu mandal by deleting the habitations from the CPWS scheme sanctioned for Rs.10.00 crores under SMP grant and the works are awarded on nomination basis by splitting below Rs.5.00 lakhs.

III. The Superintending Engineer placed indents for pump sets, panel boards, hand pump spares etc. on different schemes without quality inspection without requirement in violation of guidelines as per G.O.Ms.No.195 PR&RD Department.

IV. Different rates are allowed for supply of Alum in maintenance works in different divisions to benefit some contractors and caused loss to Government.

V. Superintending Engineer got registered Sri M. Anji Reddy as Class-II contractor, without verification of experience certificates submitted by him which are fake and forged certificates.

VI. The Superintending Engineer colluded with contractors in finalizing tenders of World Bank & NRDWP works. He allotted works in favour of Sri M. Anji Reddy & Sri Prabhakar. Re-caste estimates were approved after tenders and the rates in agreement are not as per original sanctioned estimate rates.

VII. The Superintending Engineer claimed consultancy charges for preparation of estimates in Work Bank scheme by colluding with consultants though these estimates were prepared by field engineers of department.

VIII. The Superintending Engineer along with Assistant Project Director (World Bank) misappropriated lakhs of rupees of Par-A funds of World Bank in purchase of furniture; paper publications and caused loss to Government.

IX. The Superintending Engineer misappropriated NH deposited funds of Rs.40.00 lakhs for preparation of estimates for NRDWP work estimates against guidelines & by misguiding District Collector.

After conducting enquiry, the General Administration (V&E) Department has found as follows in respect of allegation-I:-

i. The part of the allegation that Sri M. Anji Reddy is not having experience in supply and installation of chlorination unit is Proved as he is only a registered class V civil contractor and not having any past experience in installing chlorination units, he is not either dealer or their agent and it is against conditions stipulated in tender notice for supply of gas chlorinators.

ii. The Superintending Engineer called for tenders for installing Gas Chlorinator units by specifying one unit in the tender notice and placed nearly 10 week orders on that rate and concluded agreements violating codal rules and tender guidelines. Had he called tenders for total 10 units with wide publicity for rate contract that could have yielded more competitive rates for supply of Gas Chlorination units from the suppliers.

In respect of allegation-II, the findings of the V&E Department are as follows:-

i. The part of the allegation that the works are awarded on nomination basis by splitting below Rs.5.00 Lakhs is partially proved as the proposed work was split in to 5 works out of which only one work was awarded on nomination basis and the remaining works awarded on tender basis only.

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ii. Though the works are entrusted on tender basis, some procedural lapses were observed in finalizing the tenders as detailed below:-

a) Note file was not maintained in RWS Division Office by the concerned case worker to verify full details on these tenders. Though one of the bidders has not signed in bid documents it was considered for evaluation which shows gross negligence of bid evaluating officials. From the tender percentage quoted for all the four works, it is evident that these are compromised tenders by the bidders defeating very purpose of tenders to get best offer for the works.

b) Instead of proposing a single augmentation work, the then Deputy Executive Engineer, Rural Water Supply Sub Division, Darsi proposed 5 works by splitting is irregular.

c) The Departmental officials failed to initiated action against the default bidders who has purchased tender schedules and not submitted their bids which is in violation of tender conditions.

In respect of allegation-IV, the findings of the V&E Department are as follows:-

i. The rates for Alum, Bleaching Powder, Chlorine Gas are not provided in SSR even after issue of Government orders vide G.O.Rt. No.2290 of Panchayat Raj & Rural Development Department dated.20.12.2012. & G.O.Rt.No.1292 of Panchayat Raj & Rural Development (R.W.S.I) Department dated.06.08.2013. The Department officials are procuring these materials by calling local tenders/through quotations and fixing the rates at higher level thereby causing heavy loss on Government exchequer for maintenance of CPWS Schemes.

ii. The Executive Engineer, R.W.S.&S Division, Ongole approved rates for Alum & Bleaching Powder through tender for procurement of Alum and Bleaching Powder which is at 48.10% excess over approved estimate rates by the Superintending Engineer for the work "Cost & Supply of Bleaching Powder, Alum and Gas Chlorine for water treatment under the work: O&M of CPWS Scheme to Medarametla & other habitations in Prakasam District" violating tender conditions and guidelines there by caused loss to Government exchequer.

In respect of allegation-VI, the findings of the V&E Department are as follows:-

i. The allegation that the Superintending Engineer colluded with contractors in finalizing tenders of world Bank & NRDWP works is partially substantiated as there were some doubtful corrections made in tender documents. But it is evident that Superintending Engineer has not verified the genuineness of experience certificates produced by M. Anji Reddy before entrustment of works which are sub contract works in his own circle without any counter signature of concerned Executive Engineer. Vigilance & Enforcement Officials could not identify any re-caste estimates approved after tenders, hence this allegation also not substantiated.

In respect of allegation-VII, the findings of the V&E Department are as follows:-

i. The allegation that the Superintending Engineer, R.W.S.&S Circle & Project Manager, APRWSSP, Ongole claimed consultancy charges for preparation of estimates in world bank scheme by colluding with consultants though these estimates were prepared by field Engineers of Department is partially substantiated due to following evidences:-

a) None of the estimates submitted by the consultants bear their signatures on any documents /drawings / designs enclosed in

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the estimates. No correspondence letters available in files on the consultancy services. Only departmental officers signed the estimates. The main aim of the Government to engage technical consultancies is to "to expedite work along with utilizing of latest techniques and methodologies, the 3rd party consultant shall invariably utilize latest techniques to make the most efficient and cost effective design. Various options available shall be informed to the Engineer – in – Charge of Technical approval, their pros and cons discussed and the most cost effective option arrived at. For this evaluation not only capital cost but the O&M cost over the life period of the scheme shall also be considered. Similarly, case of O&M will also be one of the criteria for finalizing any particular design. Sustainability shall be necessarily ensured. While designing big MVS Schemes, option of going for multiple small schemes for a smaller cluster of villagers shall be examined, wherever multiple or extended sources are available". But as examined the estimates they does not contain any such evaluation by the consultants as the estimates are like routine departmental type of estimates. Though department might have utilised their services for total station surveys and for taking levels, the final out put of the estimates are not as per the conditions of agreement and as per guidelines issued. Thus, the very purpose of engaging consultancies was defeated causing heavy loss to Government exchequer as nearly Rs.1.32 Crores was spent on consultancies in Prakasam District alone in World Bank works.

b) From the Statement of Sri P.Kumar, Ongole, an individual consultant it is evident that he has no past experience in preparing DPRs of Rural Water Supply Department. But the department utilized them for taking levels and some total station surveys. The estimates were prepared by some other third party persons. Though certain field officers stated that estimates were prepared by consultants and some stated that these are done by department officers, it could not be fully established that all the estimates are done by departmental officials alone without utilizing some third party agencies as the quantum of works are very heavy.

c) The Project Manager, APRWSSP has not forwarded the agreements to respective Division / Sub Divisions for getting the works done by the consultants as per agreement conditions as field officers are to be present during investigations by the consultants. Instead of that, all issues like i.e. recording, check-measurements, bills preparation, bills processing are dealt by only two officials i.e. Sri G.V.Ramana, Technical Manager, Sri Shaik Baba Lateef, working in his office. This give rise to suspicion on this issue.

d) As verified from the bills, the payments were made to consultants only. It is not possible to prove that amounts are taken back by the departmental officials by colluding with consultants.

ii. In the agreements, recording bills & payments made to consultants, several discrepancies are observed as detailed below.

a) Maximum ceiling rates fixed by the project Director for different categories of habitations exceeded in Agt No.19 & 20 for the individual consultant Sri A. Ramanjaneyulu by allowing service tax extra @12.36% over approved maximum rates.

b) Though the rates are inclusive of service tax in Agt No.19 of Sri A.Ramanjaneyulu, Hyderabad, instead of recovering service tax, an amount of Rs.50,058/-is added towards service tax and paid.

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c) An amount of Rs.10,46,645/- Lakhs was paid to consultancies towards service tax in consultancy works of World Bank. The Department neither obtained service tax registration numbers of agencies nor obtained any confirmation of remittances from the agencies regarding payment of tax to the central excise department for verification. Only in three bills service tax, was recovered from the consultants i.e., Sri P.Kumar (Agt. No.11), an amount of Rs.57,474/- and from M/s. TSS Consultancy, Hyderabad (Agt. No.5- Rs.1,55,226/- & Agt. No.9- Rs.69,570/-) an amount of Rs.2,24,796/- was recovered by the department which is not remitted to respective head till date.

d) In bills of Agt. No.2, 4, 12, 20 only part payments made @ 80% (90% /95% in Agt No.2) till date. No details available whether the estimates submitted by the agencies are approved or not.

e) The recording Officer, Sri G.V. Ramana, Manager Technical has not provided any details of estimates submitted by the consultants with nomenclature of estimate with amount, technical sanction reference in MB before recommending 100% payment for verification.

In respect of allegation-IX, the findings of the V&E Department are as follows:-

i. The allegation that the Superintending Engineer misappropriated NH deposited funds of Rs. 40.00 Lakhs for preparation of Estimates for NRDWP work Estimates against guidelines & by misguiding District Collector is partially proved as he spent only Rs.12 lakhs in engaging consultants against Government orders and the balance amount Rs.7.50 Lakhs is utilized for repairs of Sub Division officer in Darsi and Rs.20.00 laks is still available with Executive Engineer, Rural Water Supply, Ongole.

ii. The field officers executed a work "Special Repairs, renovation and maintenance of RWS&S Sub Division, Darsi in RWS (P) Division Podili departmentally and payment made in violation of codal provision and rules in vogue.

iii. An amount of Rs. 12.00 lakhs was drawn from supervision charges of NH widening funds and paid to M/s S.V Associates, Designers & Engineers towards preparation of DPRs. Through these DPRs were prepared by field officers causing loss to Government exchequer.

Being a Government servant, he failed to maintain absolute integrity and devotion to duty and shown gross negligence towards his legitimate duties, in violation of Rule-3 of Andhra Pradesh Civil Services (Conduct) Rules, 1964.

Hence the charge.

Dr. K.S. JAWAHAR REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

SECTION OFFICER

ANNEXURE-II

(Annexure to G.O.Rt.No.1015, PR&RD (Vig.II) Dept., dt.31.10.2015)

LIST OF DOCUMENTS BY WHICH THE ARTICLE OF CHARGE ARE PROPOSED TO BE SUSTAINED AGAINST SRI R.M.R DAYAL, SUPERINTENDING ENGINEER, RWS&S, ONGOLE, PRAKASAM DISTRICT (RETD.).

Vigilance Report No.38 (C.No.1064/V&E/E2/2013), dated:06.05.2015 of the General Administration (Vigilance & Enforcement) Department.

Dr. K.S. JAWAHAR REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

SECTION OFFICER

ANNEXURE-III
(Annexure to G.O.Rt.No.1015, PR&RD (Vig.II) Dept., dt. 31.10.2015)

LIST OF WITNESSES BY WHOM THE ARTICLE OF CHARGE ARE PROPOSED TO BE SUSTAINED AGAISNT SRI R.M.R DAYAL, SUPERINTENDING ENGINEER, RWS&S, ONGOLE, PRAKASAM DISTRICT (RETD.).

- NIL –

Dr. K.S. JAWAHAR REDDY
PRINCIPAL SECRETARY TO GOVERNMENT

SECTION OFFICER